



- a monthly premium of \$129 for her benefits. The notice informed her that she would get a premium payment notice in the mail each month. It also informed her that if she did not pay the premium, her benefits would end and she would not be able to enroll in BC+ for a period of 12 months.
3. On July 18, 2012, the agency mailed a premium payment notice to the Petitioner. On or about August 17, 2012, the agency mailed another premium payment notice to the Petitioner. The notices were not returned to the agency.
  4. On July 24, 2012, the Petitioner submitted a check for \$94 to the agency.
  5. On August 3, 2012, the Petitioner contacted the agency to report that her employment at Menard's ended on August 2, 2012. The Petitioner also reported changes in her VA benefits. Case updated 8/30/12. Premium was due on 8/10/12.
  6. On August 31, 2012, the agency issued a Notice of Decision informing the Petitioner that she is eligible for BC benefits effective October 1, 2012 without a premium.
  7. On October 1, 2012, the Petitioner was placed in a 12 month restrictive re-enrollment status for non-payment of her August premium.
  8. On December 10, 2012, the agency issued a Notice of Decision to the Petitioner informing her that her BC benefits would end effective January 1, 2013 due to an increase in household income and her restrictive re-enrollment status.
  9. On February 19, 2013, the agency issued a Notice of Decision to the Petitioner informing her that she was eligible for BC benefits with no premium effective April 1, 2013. This was due to a decrease in household income as a result of the agency not counting Petitioner's VA benefits. On March 5, 2013, the agency issued a Notice of Decision to the Petitioner informing her that she was eligible for BC benefits with no premium effective March 1, 2013. The agency also did not include VA benefits in making this determination.
  10. In April, 2013, the Petitioner reported receiving child support income. The agency discovered that VA benefits were not being properly counted as income.
  11. On May 17, 2013, the agency issued a Notice of Decision to the Petitioner informing her that she is not eligible for BC benefits effective June 1, 2013 because she is in restrictive re-enrollment and she has more household income. The notice informed her that she had a right to file an appeal with the Division of Hearings and Appeals by July 17, 2013.
  12. On June 28, 2013, the agency issued a Notice of Decision to the Petitioner informing her that she is not eligible for BC benefits as of August 1, 2013 because she is in restrictive re-enrollment status. The notice also informed her that she had a right to file an appeal with the Division of Hearings and Appeals by September 16, 2013.
  13. On August 22, 2013, the agency issued a Notice of Decision to the Petitioner informing her that she is not eligible for BC benefits as of October 1, 2013 because she had not applied for benefits. The notice also informed her that she had a right to file an appeal with the Division of Hearings and Appeals by November 18, 2013.
  14. On November 4 and 12, 2013, the agency issued a Notice of Decision to the Petitioner informing her that she is eligible for BC benefits with no premium for October and November, 2013 and effective December 1, 2013. The November 12 notice also informed her that she had a right to file an appeal with the Division of Hearings and Appeals by December 30, 2013.
  15. The Petitioner filed an appeal on January 10, 2014.

## **DISCUSSION**

A hearing officer can only rule on the merits of a case if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by an agency concerning MA, including BC, must be filed within 45 days of the date of the action. Wis. Stats. § 49.45(5). A negative action can be the denial of an application or the reduction or termination of an ongoing case. It can also include placement in restrictive re-enrollment status.

In this case, the Petitioner testified that she did not receive the premium notice in July, 2012 and did not know until June, 2013 that she was in restrictive re-enrollment status. She testified that she did receive the notice from the agency of May 17, 2013.

The agency sent numerous notices to the Petitioner between July, 2012 and November, 2013 informing her of her eligibility and status regarding restrictive re-enrollment. Petitioner did not file an appeal until January 10, 2014. I don't find the evidence credible that she was unaware of her status or that she didn't receive the July, 2012 premium notice. Even if she didn't receive that notice, she had numerous opportunities to file an appeal regarding her status and she did not do so until January 10, 2014. The last time the agency took an adverse action against the Petitioner relating to BC benefits was August 1, 2013 when it denied her eligibility because of her restrictive re-enrollment status. The petitioner's appeal was filed 163 days after the date of that action. Thus, her appeal is untimely, and no jurisdiction exists for considering the merits of the case.

## **CONCLUSIONS OF LAW**

The Petitioner's appeal is not timely.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal is dismissed.

## **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

## **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 28th day of March, 2014

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on March 28, 2014.

Washington County Department of Social Services  
Division of Health Care Access and Accountability